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IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 186

BY BUSINESS COMMITTEE

AN ACT

RELATING TO TOWED VEHICLES; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807B, IDAHO CODE, TO PROVIDE FOR REQUIRED RECORDS AND DEFINITIONS; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807C, IDAHO CODE, TO PROVIDE FOR REOUESTS FOR TOW AND NOTIFICATION: AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807D, IDAHO CODE, TO PROHIBIT CERTAIN REQUESTS FOR TOW, TO PROVIDE FOR STORAGE AND TO PROVIDE FOR RELEASE OF VEHICLE; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807E, IDAHO CODE, TO PROVIDE FOR TOW WHEN VEHICLE OPERATOR IS ARRESTED OR OTHERWISE TAKEN INTO CUSTODY AND TO PROVIDE FOR OTHER TOWS; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807F, IDAHO CODE, TO PROVIDE FOR STORAGE RATES, TO PROVIDE FOR POSTING OF RATES AND TO PROVIDE FOR RELINQUISHMENT OF VEHICLE; AND AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807G, IDAHO CODE, TO PROVIDE FOR PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to provide for the protection of the public interest as it relates to the towing of vehicles from public or private property without the consent of the vehicle's owner or operator. To that end, this act provides for safeguards for the public health, safety and welfare, and promotes the best interests of residents of this state, including provisions to prevent tow activities that are arbitrary, unfair, discriminatory or unequally applied.

SECTION 2. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807B, Idaho Code, and to read as follows:

- 49-1807B. REQUIRED RECORDS DEFINITIONS. (1) Any person who performs a non-consent tow shall maintain a record of the tow, for a period of six (6) months following the date of the non-consent tow, to include the following information:
 - (a) The person or business authorizing the tow;
 - (b) The location of the tow;
 - (c) The date and time of the tow;
 - (d) The color, make, model and year of the vehicle towed;
- (e) A description of any personal property located within the towed vehicle if known to the tow operator;

(f) An itemized statement of services provided and fees owed; and

- (g) The final disposition of the vehicle, after the tow, to include whether it was claimed by the owner or agent of the owner, disposed as low value or auctioned. If auctioned or disposed as low value, a detailed statement of the revenue received for the vehicle, including any parts of the vehicle sold or auctioned as separate parts.
- (h) If the owner of the vehicle has notified the tow operator or owner that such owner disputes the fees or rates charged by the tow operator or owner, such operator or owner shall retain the records provided for in this section for not less than six (6) months after the dispute has concluded, unless otherwise ordered by a court.
- (2) Upon request by any peace officer, the registered owner of a towed vehicle or the owner's lawful representative, the person who conducts the tow shall provide a copy of the record of the tow, as provided in subsection (1) of this section, at no cost.
- (3) For purposes of this act, the term "peace officer" has the same meaning as that term is defined in section 19-5101, Idaho Code.
- (4) For purposes of this act, the term "non-consent tow" means the removal of a vehicle from public or private property by the use of a tow truck where the towing vendor was not selected by the vehicle's owner, driver or agent of the vehicle's owner.
- SECTION 3. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807C, Idaho Code, and to read as follows:
- 49-1807C. REQUEST FOR TOW NOTIFICATION. (1) It shall be unlawful to conduct a non-consent tow except under the specific request of a peace officer, other government officials, or the owner or authorized representative of the private property from which a tow will be made. General authorization for non-consent tows from private property is prohibited. Specific requests for non-consent tows from private property, other than requests from peace officers or other government officials, must include written authorization from the owner of the property or the authorized representative, who shall be present at the time of the removal of the vehicle. Such presence shall not be required when the vehicle to be removed is parked in a manner which interferes with entrance to or exit from the private property.
- (2) It shall be unlawful to tow a vehicle from private property unless the name and phone number of the person or entity conducting the tow, is clearly posted in a conspicuous area near the location of the tow, or unless the tow is directed by peace officers or other government officials. The person or entity conducting the tow shall notify the appropriate law enforcement agency by the next business day after any private property tow, of the make, model and license number of the vehicle removed, as well as the location from which it was towed.
- SECTION 4. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807D, Idaho Code, and to read as follows:
- 49-1807D. UNLAWFUL REQUEST FOR TOW PLACEMENT OF TOWED VEHICLE RELEASE OF VEHICLE. (1) It shall be unlawful to knowingly request a tow of a vehicle or to conduct a tow of a vehicle that is lawfully parked or otherwise lawfully upon private property, unless at the direction of a peace officer or other government official. It is

unlawful to receive any payment, including tow fees, storage fees or any other fee for a tow initiated in violation of this act.

- (2) All vehicles towed without the consent of the owner or operator shall be delivered in a safe manner to an impound lot that is locked, lighted and secure. If the tow was directed by a peace officer, that person may also direct the location of the vehicle storage.
- (3) A tow truck operator shall release a vehicle upon request of the owner or driver if the vehicle has not yet been removed from the tow location and the owner or driver can lawfully remove the vehicle from the location at that time. The tow truck operator shall not be permitted to require payment of the tow fee unless the vehicle has been attached to the tow truck and is in a position ready to be towed prior to the request for release. If the vehicle is not attached to the tow truck at the time of request for release, the tow truck operator may require a payment not to exceed fifty dollars (\$50.00) plus mileage one (1) way from the storage lot prior to releasing the vehicle; however the tow truck operator shall allow for reasonable accommodations for the owner or driver to obtain the required fee before removing the vehicle from the location.
- SECTION 5. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807E, Idaho Code, and to read as follows:
- 49-1807E. VEHICLE OPERATOR ARRESTED OTHER TOWS. (1) Notwithstanding any other provision of law, any peace officer shall be authorized to direct the removal of a vehicle from which the operator has been arrested or otherwise taken into lawful custody. Exceptions to this authorization are vehicles parked on private property with the express permission of the property owner or owner representative, and vehicles which are owned by a person other than the arrested operator, and the owner is available to remove the vehicle upon direction by a peace officer in a reasonable and timely manner. Removal of vehicles under this section shall be considered lawful law enforcement impounds.
- (2) Any peace officer shall be authorized to direct the removal of vehicles that are abandoned, unlicensed, wrecked, junked, or hazardously parked at or upon any street, roadway or public place. In addition, any peace officer shall be authorized to direct the removal of vehicles, from any place public or private, which are parked in a designated fire lane or for which there is probable cause to believe are stolen, constitute evidence of a crime or contain evidence of a crime.
- SECTION 6. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807F, Idaho Code, and to read as follows:
- 49-1807F. MAXIMUM STORAGE RATES POSTING OF RATES RELINQUISHMENT OF VEHICLE. (1) For the storage of vehicles hereinafter described as "non-consent tows," the following maximum storage rates shall apply:
 - (a) For light-duty vehicles a maximum fee of twenty-five dollars (\$25.00) per day, per unit, for outside storage; and a maximum fee of thirty dollars (\$30.00) per day, per unit, may be charged for inside storage. For purposes of this act, "light-duty vehicles" means passenger cars and trucks with a three-quarter (3/4) ton chassis or less.

- (b) For medium and heavy-duty vehicles a maximum fee of thirty-five dollars (\$35.00) per day, per unit, for outside storage; and a maximum fee of seventy dollars (\$70.00) per day, per unit, may be charged for inside storage. For purposes of this act, "medium and heavy-duty vehicles" means a vehicle with a one (1) ton chassis or larger, including semi-tractor trailers, buses, or similar type vehicles.
- (c) For vehicles used in the transportation of materials found to be hazardous under 49 U.S.C. section 5103, and required to be placarded under subpart F of 49 CFR part 172, a maximum fee of seventy-five dollars (\$75.00) per day, per unit, for outside storage; and a maximum fee of one hundred dollars (\$100) per day, per unit, may be charged for inside storage. Inside storage shall be only at the owner's request, or at the order of a law enforcement agency or highway authority.
- (2) (a) It is illegal for a tow truck operator or owner to require the owner of an impounded vehicle to pay any money other than the appropriate amount provided for in this section. Any tow truck operator or owner charging more than the maximum approved rates provided herein may be assessed civil penalties.
- (b) For the purpose of calculating storage rates pursuant to this section, if the first six (6) hours of storage for a vehicle includes more than one (1) day, the authorized storage fee shall be only the charge for one (1) day.
- (3) (a) Any tow truck operator or impound yard shall clearly and conspicuously post and disclose all current non-consent fees and rates for towing and storage of a vehicle.
- (b) It is illegal for a tow truck operator or owner to charge the owner of any vehicle ancillary fees or costs not provided for in this section, including, but not limited to, gate or access fees.
- (c) Any tow truck operator or owner shall be responsible for damages to a vehicle, and its contents, in the care, custody and control of the tow truck operator or owner, and shall take reasonable measures to protect the vehicle and its parts and contents.
- (d) (i) The owner of a vehicle shall not be responsible for any storage costs after a period of seven (7) days from the initial non-consent tow, unless notified in writing, by the tow truck operator or owner, of the costs of storage. In addition to costs of storage, such notification shall also provide the owner of the stored vehicle written opportunity to move his or her vehicle to another location.
 - (ii) A vehicle in the possession of a tow truck operator or owner shall be relinquished to such vehicle's owner or such owner's legal representative, family member or insurer upon request and authorization for payment of the legally incurred fees provided for in this section.
- SECTION 7. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 49-1807G, Idaho Code, and to read as follows:
- 49-1807G. PENALTIES. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and shall be subject to a minimum fine of one hundred fifty dollars (\$150) up to five hundred dollars (\$500). A second violation of this act shall be subject to a minimum fine of three hundred dollars (\$300) up to one thousand dollars (\$1,000). Any third or subsequent violation shall be subject to a minimum fine of five hundred dollars (\$500) up to one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six (6)

- months, or both. Each day such violation is committed or permitted to continue shall constitute a separate offense and be punishable as such hereunder.